IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 18TH OCTOBER 2007 / 26TH ASWINA 1929

Crl.MC.No. 5463 of 2003(C)

CC.532/2002 of JUDL. MAGISTRATE OF FIRST CLASS COURT-II, THRISSUR

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PETITIONER: ACCUSED

ASRAPH A.M. S/O. A.K.MOHAMMED,
ATISSERILTHYVEPU, ALANTHURUTH, VADAKKEKARA P.O.,
NORTH PARAVOOR TALUK, ERNAKULAM DISTRICT

BY ADV. SRI.JIJO PAUL
SRI.BABU S. NAIR

RESPONDENTS: STATE

THE STATE OF KERALA, REPRESENTED BY
THE SUB INSPECTOR OF POLICE, ANTHIKKAD POLICE
STATION-THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, KOCHI-31

BY PUBLIC PROSECUTOR, SRI C.K.SURESH

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 18/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J.

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Crl.M.C.No.5463 of 2003-C

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Dated this the 18th day of October, 2007

O R D E R

The petitioner is the accused in C.C.No.532/2002 in the file of the Judicial Magistrate of the First Class-II, Thrissur, with respect to the offence under Section 387 I.P.C. The petitioner is the subordinate officer in the Forest Department of the de facto complainant. He has contended that the offence under Section 387 I.P.C will not lie as per the recitals in the final report filed by the police wherein the only allegation is that the de facto complainant was threatened and hence, Section 387 I.P.C will not be attracted. I find that the Public Prosecutor has produced the case diary wherein it is seen that the allegations in tune with the ingredients of Section 387 I.P.C is incorporated. In the circumstances, I find that it is not a fit case to invoke Section 387 Cr.P.C. All the same the petitioner will be entitled to apply for discharge and the court below shall dispose of the above application on merits untrammelled by the observations if any contained in this order.

Crl.M.C is disposed of accordingly.

K.R.UDAYABHANU,
Judge

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